

the effective date of this section, under an implied promise of confidentiality;

(f) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(g) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the United States Government under an express promise of confidentiality, or, prior to the effective date of this section, under an implied promise of confidentiality.

## **PART 1902—INFORMATION SECURITY REGULATIONS**

### **Subparts A–E—[Reserved]**

### **Subpart F—Declassification and Downgrading**

AUTHORITY: Sec. 5–402 of Executive Order 12065.

#### **§ 1902.13 Declassification and Downgrading Policy.**

(a)–(b) [Reserved]

(c) The Executive Order provides that in some cases the need to protect properly classified information “may be outweighed by the public interest in disclosure of the information,” and that “when such questions arise” the competing interests in protection and disclosure are to be balanced. The Order further provides that the information is to be declassified in such cases if the balance is struck in favor of disclosure. The drafters of the Order recognized that such cases would be rare and that declassification decisions in such cases would remain the responsibility of the Executive Branch. For purposes of these provisions, a question as to whether the public interest favoring the continued protection of properly classified information is outweighed by a public interest in the disclosure of that information will be deemed to exist only in circumstances where, in the judgment of the agency,

nondisclosure could reasonably be expected to:

- (1) Place a person’s life in jeopardy.
- (2) Adversely affect the public health and safety.
- (3) Impede legitimate law enforcement functions.
- (4) Impede the investigative or oversight functions of the Congress.
- (5) Obstruct the fair administration of justice.
- (6) Deprive the public of information indispensable to public decisions on issues of critical national importance (effective for declassification reviews conducted on or after 1 February 1980).

(d) When a case arises that requires a balancing of interests under paragraph (c) above, the reviewing official shall refer the matter to an Agency official having Top Secret classification authority, who shall balance. If it appears that the public interest in disclosure of the information may outweigh any continuing need for its protection, the case shall be referred with a recommendation for decision to the appropriate Deputy Director or Head of Independent Office. If those officials believe disclosure may be warranted, they, in coordination with OGC, as appropriate, shall refer the matter and a recommendation to the DDCI. If the DDCI determines that the public interest in disclosure of the information outweighs any damage to national security that might reasonably be expected to result from disclosure, the information shall be declassified.

[45 FR 64175, Sept. 29, 1980]

## **PART 1903—REGULATIONS TO IMPLEMENT SECTION 401 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1985**

Sec.

1903.1 Applicability.

1903.2 Control of activities on protected property.

1903.3 Restrictions on admission to protected property.

1903.4 Control of vehicles on protected property.

1903.5 Enforcement of parking regulations.

1903.6 Security inspection.

1903.7 Prohibition on weapons and explosives.